

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose Antonio VILLALOBOS,

Defendant.

Magistrate Case No. 07MJ8893

FINDINGS OF FACT AND  
ORDER OF DETENTION

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on November 15, 2007, to determine whether defendant Jose Antonio VILLALOBOS should be held in custody pending trial on the grounds that he is a flight risk. Assistant U. S. Attorney John F. Weis appeared on behalf of the United States. Court-appointed counsel David L. Baker, appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the pretrial services report, and the criminal complaint issued against the Defendant on November 1, 2007, by this Court, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1)

1. The Defendant is charged in Criminal Complaint No. 07MJ8893 with the importation of 28.04 kilograms (61.68 pounds) of cocaine in violation of 21 U.S.C. § 952 and 960. Therefore, probable cause exists to believe the Defendant committed the charged offense.

2. The charged offense is an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus, there arises a presumption that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

3. The offense carries with it a minimum mandatory 10 year sentence and a maximum life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines, the Base Offense level is 34. See USSG § 2D1.1(3). Assuming the Defendant's criminal history score places him in Criminal History Category I, See USSG § 4A1.1, the sentencing range for the Defendant is 151-188 months in prison.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2):

1. On October 31, 2007, Defendant was the driver, sole occupant and registered owner of a 1999 Ford Windstar, as he entered the United States from Mexico, at the Calexico, California, West Port of Entry. Defendant and the vehicle were referred to the vehicle secondary area. During secondary inspection, a Narcotic Detector Dog alerted to the dashboard area of the vehicle. Further inspection revealed 28.04 kilograms (61.68 pounds) of cocaine concealed in a false compartment built into the floor and firewall area of the vehicle. Defendant gave conflicting statements regarding the purchase of the vehicle, his reason for going into Mexico and how he crossed into the United States.

C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3):

1. The Defendant is a naturalized United States citizen.
2. The Defendant resides with his wife and daughter in Pomona, California.
3. The Defendant is unemployed.

1 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4):

2 1. The government proffered no evidence to suggest that release of the Defendant  
3 would pose a danger to any person or the community. The Defendant has the following criminal history:

4 01/14/74 - 8 U.S.C. §1325 - 6 months custody, 3 years probation

5 06/06/74 - DUI - Disposition Unknown

6 II

7 REASONS FOR DETENTION

8 A. There is probable cause to believe that the Defendant committed the offense charged in  
9 the Criminal Complaint Number 07MJ8893, to wit: the importation of 28.04 kilograms (61.68 pounds)  
10 of cocaine in violation of 21 U.S.C. § 952 and 960:

11 B. The Defendant faces a substantial period of time in custody if convicted of the offense  
12 charged in the Complaint. He therefore has a strong motive to flee.

13 C. The Defendant has not rebutted the presumption, based upon the Court's findings that  
14 there is probable cause to believe that the Defendant committed an offense for which a maximum term  
15 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801  
16 et seq.), that no condition or combination of conditions will reasonably assure the appearance of the  
17 Defendant at future court proceedings.

18 III

19 ORDER

20 IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

21 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney  
22 General or his designated representative for confinement in a corrections facility separate, to the extent  
23 practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The  
24 Defendant shall be afforded reasonable opportunity for private consultation with counsel.

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1 While in custody, upon order of a court of the United States or upon the request of an attorney  
2 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the  
3 United States Marshal for the purpose of an appearance in connection with a court proceeding or any  
4 other appearance stipulated to by defense and government counsel.

5 THIS ORDER IS ENTERED WITHOUT PREJUDICE.

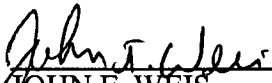
6 IT IS SO ORDERED.

7 DATED: 11-27-07

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10 PETER C. LEWIS  
UNITED STATES MAGISTRATE JUDGE

11 Prepared by:

12 KAREN P. HEWITT  
13 United States Attorney

14   
15 JOHN F. WEIS  
16 Assistant U. S. Attorney

17 cc: David L. Baker  
18 Counsel for Defendant  
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